IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

OP.No. 27320 of 2001(B)

PETITIONER:

DAISY CHERIAN, 186, GIRI NAGAR, COCHIN 20

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM

RESPONDENTS:
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1. THE DEPUTY TAHSILDAR, RR, KANAYANNUR TALUK, ERNAKULAM.

2. THE VILLAGE OFFICER, ELAMKULAM, ERNAKULAM.

3. THE DISTRICT EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND, PALARIVATTOM, COCHIN 25

R1 AND R2 BY GOVERNMENT PLEADER SMT. SMITHA
R3 BY ADV. SRI.P.RAMAKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 44420 OF 2001 IN OP 27320 OF 2001

DISMISSED

12.12.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOCOPY OF DEMAND NOTICE DATED 4.9.2001 ISSUED FROM THE FIRST RESPONDENT.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(a) TRUE COPY OF THE FINAL DETERMINAZTION ORDER EE 1520/89/96 DATED 31.10.2000 ISSUED BY THE THIRD RESPONDENT.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 27320 OF 2001

Dated this the 12th day of December, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of motor transport workers welfare fund contribution demanded in respect of workers engaged in 14 lorries for the period from 1989-1996. Petitioner's husband who was operating transport agency died on 31.5.1996. However, enquiry was conducted, and even though provisional determination order was served on the petitioner, petitioner did not appear or give evidence in the enquiry. The lorry workers who appeared gave evidence to the effect that operating owner was collecting welfare fund contribution from employees' salaries. Obviously even after collection, the same was not remitted to the third respondent, which led to revenue recovery proceedings. Final determination order was passed on 31.10.2000. The prayer in the O.P. is to grant some time, probably to enable the petitioner to file appeal against final determination order. It is not known whether appeal is filed, and if so, what is the fate of the appeal. In any case I do not find

any justification to continue the interim order of status quo granted by this Court. Accordingly, the said order is vacated. However, if petitioner has not filed appeal, I feel one more opportunity can be granted to the petitioner to collect the order and file appeal, but on payment of 50% of the amount due under revenue recovery proceedings. If the petitioner files appeals after payment of 50% of the amount due as stated above within one month from the date of receipt of a copy of this judgment, then there will be direction to the appellate authority to treat the appeal as one filed within time and dispose of the same within two months thereafter. If 50% of the amount due is paid and appeal filed as above, then recovery of the balance will remain stayed for two months thereafter. Recovery thereafter will be based on order in appeal by the appellate authority.

O.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge